

**REMARKS**

Applicant requests reconsideration and allowance of the present application in view of the foregoing amendments and the following remarks.

Claims 1-17 are pending in the present application. Claims 1, 5, 9 and 13 are the independent claims.

Claims 5 and 9 have been amended. No new matter is believed to have been added.

The Examiner has rejected claims 5-8 under 35 U.S.C. § 112, second paragraph as being indefinite. In response, Applicant has amended claim 5 in view of the Examiner's comments and respectfully submit that claims 5-8 now even more fully satisfy the requirements of 35 U.S.C. § 112, second paragraph.

Accordingly, favorable reconsideration and withdrawal of the rejection of claims 5-8 under 35 U.S.C. § 112, second paragraph, are respectfully requested.

Claims 1, 2, 9, 10 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over JP 4-17816 (Matsuo) in view of U.S. Patent No. 4,947,875 (Brooks et al.). Claims 3, 4, 11 and 12 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Matsuo in view of Brooks et al. and further in view of U.S. Patent No. 5,708,920 (Ohnishi et al.). Claims 14 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Matsuo in view of U.S. Patent No. 6,140,619 (Couch). All rejections are respectfully traversed.

Independent claim 1 recites, inter alia, detecting a temperature of a cooking cavity.

Independent claim 9 corresponds generally to independent claim 1 and recites similar features in apparatus form.

Independent claim 13 recites, inter alia, measuring a temperature of a cooking cavity.

However, Applicant respectfully submits that none of the asserted citations teach or suggest at least the aforementioned features of independent claims 1, 9, and 13. Thus, the asserted combinations of citations are likewise deficient, assuming arguendo that the asserted combinations are proper. Moreover, Applicant contends that the asserted combination of Matsuo and Brooks et al. is improper.

Matsuo relates to an electric hot plate including a cooking plate 1, a heating element 2 under the cooking plate to warm the cooking plate, and a thermal controller 4 which controls an amount of current delivered to the heating element so as to control the temperature of the

cooking plate. (Matsuo, Abstract). In particular, when the cooking plate reaches a preset temperature, the current is cycled on and off to yield a stable cooking plate temperature. (Matsuo, Abstract). However, absent from Matsuo is any teaching or suggestion of detecting or measuring a temperature of a cooking cavity.

Brooks et al. relates to flavor delivery articles which provide flavored aerosols and is cited for its teaching of a preset on/off heating period. Brooks et al. teaches an arrangement which includes an air-permeable electrical resistance heating element 18 heated by a flow of current. (Brooks et al., Abstract, Col. 5, lines 40-50). Further, a timer 112 is used to generate an on/off current duty cycle to control the temperature range of the heating element. (Brooks et al., Col. 12, lines 20-28). However, absent from Brooks et al. is any teaching or suggestion of detecting or measuring a temperature of a cooking cavity.

Accordingly, favorable reconsideration and withdrawal of the rejection of independent claims 1, 9, and 13 under 35 U.S.C. § 103 are respectfully requested.

Regarding the rejections of claims 3, 4, 11, 12, 14, and 15 under 35 U.S.C. § 103, Ohnishi et al. relates to a toner image fixing device with a roller-temperature limitation and Couch relates to a temperature control apparatus, method and memory medium for an oven. Ohnishi et al. is cited for its alleged teaching of an on-off ratio of 1-3 while Couch is cited for its alleged teaching of a stand-by control. Applicant respectfully submits that neither Ohnishi et al. nor Couch add anything that would remedy the aforementioned deficiency in the combination of Matsuo and Brooks et al.

The claims patentably define the present invention over the citations of record for another reason. The Manual of Patent Examining Procedure (MPEP) instructs that:

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

(MPEP, Section 2143, 8th Edition, revised May 2004). However, Applicant respectfully submits that the requisite motivation is not present to combine Matsuo and Brooks et al.

The Office Action contends that “such modification would effect more accurate temperature control and a less costly device.” (Office Action, page 3). However, absent from the Office Action is an articulation as to why one of ordinary skill in the art would look to teachings relating to a flavored aerosol delivery device (Brooks et al.) when trying to modify a hot

plate (Matsuo) to effect "more accurate temperature control."

Accordingly, for this additional reason, favorable reconsideration and withdrawal of the rejection of independent claims 1, 9, and 13 under 35 U.S.C. § 103 are respectfully requested.

In view of the foregoing, Applicant respectfully submits that the independent claims patentably define the present invention over the citations of record. Further, the dependent claims should also be allowable for the same reasons as their respective base claims and further due to the additional features that they recite. Separate and individual consideration of the dependent claims is respectfully requested.

Applicant believes that the present Amendment is responsive to each of the points raised by the Examiner in the Official Action. However, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to such matters.

There being no further outstanding objections or rejections, it is submitted that the present application is in condition for allowance. An early action to that effect is courteously solicited.

If there are any additional fees associated with filing of this Amendment, please charge the same to our Deposit Account No. 19-3935.

Respectfully submitted,

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